

April 25, 2019

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Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

RE: BellSouth's Petition for Declaratory Ruling Regarding the Commission's Definition of Interconnected VoIP in 47 C.F.R. § 9.3 and the Prohibition on State Imposition of 911 Charges on VoIP Customers in 47 U.S.C. § 615a-1(f)(1), WC Docket No. 19-44.

Dear Ms. Dortch:

The Cloud Communications Alliance ("CCA"), by and through its counsel, submits this *ex parte* letter to support the preemption of state regulations that result in the discriminatory treatment of interconnected VoIP services with respect to 911 charges.<sup>1</sup>

The CCA is a rapidly growing association that represents the interests of innovative cloud-based providers of enterprise communications services, including Unified Communications as a Service ("UCaaS"), Communications Platform as a Service ("CPaaS") and hosted PBX services. Interconnected VoIP is a critical component of these services, which offer enterprises of all sizes cost-effective, efficient and highly sophisticated communications services without having to incur the substantial capital expense of on-site telecommunications equipment. Among other features, these highly scalable services empower enterprises to more easily and seamlessly control the configuration of their in-house networks and rapidly install new features and functions. Although many of CCA's members are smaller service providers, CCA estimates that collectively they serve more than 20 million "seats" or ultimate end users within an enterprise. Many of these

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<sup>1</sup> BellSouth Telecommunications, LLC's Petition for Declaratory Ruling, WC Docket No. 19-44, at 24 (filed Jan. 7, 2019) ("The Commission should declare that § 615a-1(f)(1) preempts any state statute that requires interconnected VoIP customers to pay a higher total amount in 911 charges than customers purchasing the same quantity of non-VoIP telephone service."). Section 615a-1(f)(1) of the Communications Act, adopted as part of the NET 911 Improvement Act, provides in pertinent part that "for each class of subscribers to IP-enabled voice services, the [911] fee or charge may not exceed the amount of any such fee or charge applicable to the same class of subscribers to telecommunications services." 47 U.S.C. § 615a-1(f)(1). More specifically, BellSouth requests the Commission to declare that the phrase "the amount of any such fee or charge" refers to the total dollar amount of 911 charges, not just the rate per charge; Comments of AT&T In Opposition To The Alabama 911 Districts' Petition For Declaratory Ruling, WC Docket No. 19-44, at 15 (filed March 28, 2019) ("AT&T Opposition"). Any state law that imposes a higher total amount on similarly situated providers using VoIP would be preempted.

enterprise customers are small to medium size businesses (“SMBs”) that, through the CCA members’ service offerings, are able to affordably obtain the type of robust communications products that previously were practically available to only the largest enterprises.

The transition to IP-enabled services is fundamental to the business of CCA’s members. Their success to date reflects the benefits of the IP transition and the deployment of broadband networks encouraged by Congress and the Federal Communications Commission’s policies.<sup>2</sup> After reviewing the record developed in this proceeding, CCA determined to add its voice to those urging the Commission to preclude states from setting 911 fees in ways detrimental to the continued transition from traditional TDM services to IP-enabled services.<sup>3</sup>

CCA’s members of course provide 911 and E911 services to their customers and collect and remit 911 fees and charges. The state and local governments’ position on 911 fees and charges reflected in the record decidedly tilts the playing field in favor of traditional voice services. The example of the economic effect of disparate state law treatment proffered by BellSouth in its petition resonates with CCA’s members. A small or medium-size business with 100 “seats” (essentially equivalent to 100 extensions) connected via a fully channelized ISDN PRI (23 voice channels) would be assessed, under some state laws, a 911 fee on a per-voice channel basis. If that same business wishes to utilize a CCA members’ services, including VoIP, the 911 fee would be assessed on a per telephone number (effectively a per seat) basis. Assuming the \$5.08 E911 per unit fee utilized in BellSouth’s example, that enterprise’s 911 costs of transitioning to cloud services, including VoIP, would increase from \$116.84 (23 x \$5.08) to \$508 dollars.<sup>4</sup>

There is nothing to justify this disparity in the amount assessed for 911 services. Transitioning from TDM to interconnected VoIP does not introduce any incremental cost in actually providing 911 service. The Pennsylvania County comments claim that interconnected VoIP imposes a greater burden on the 911 system because VoIP systems impose no limit on the number of simultaneous 911 calls.<sup>5</sup> Apart from the questionable accuracy of this claim,<sup>6</sup> the

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<sup>2</sup> See, e.g., 47 U.S.C. 1302(a) (“encourag[ing] the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”); *Technology Transitions et al.*, GN Docket No. 13-5 *et al.*, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, 29 FCC Rcd 1433 (2014).

<sup>3</sup> Comments of the Voice on the Net Coalition, WC Docket 19-44, at 3 (filed March 28, 2019); Comments of NCTA-The Internet & Television Association, WC Docket 19-44, at 2-3 (filed March 28, 2019) (“*NCTA Comments*”); Comments of Bandwidth Inc., WC Docket 19-44, at 6 (filed March 28, 2019).

<sup>4</sup> AT&T describes other ways state laws discriminate between VoIP and non-VoIP customers. It describes South Carolina’s 911 law imposing a per number charge for all providers, but caps those charges at 50 per account for non-VoIP providers but imposes no cap on VoIP providers. *AT&T Opposition* at 16.

<sup>5</sup> Comments of the Counties of Berks, Bucks, Butler, Chester, Clarion, Cumberland, Dauphin, Delaware, Lehigh, Somerset, Washington, Westmoreland, and York of the Commonwealth of Pennsylvania, WC Docket No. 19-44, at 13 (filed April 12, 2019) (“*Pennsylvania County Comments*”).

<sup>6</sup> *NCTA Comments* at 4. (noting that “multi-line VoIP services provided by NCTA member companies are provisioned with a specific number of activated lines or channels that can be used for simultaneous outbound calls, including outbound calls to 911.”)

Pennsylvania Counties contradict themselves by noting that it is “unlikely” that multiple call attempts would be made from a multiline system and that “the more connections there are, the lower the odds become of additional, marginal lines being used.”<sup>7</sup>

Such a sizable discrepancy creates an obvious economic barrier that can hinder the ability of CCA members to incentivize SMBs to transition from a traditional TDM service to interconnected VoIP. It also curtails the Commission’s and Congress’s efforts to ensure technology neutral and nondiscriminatory treatment of VoIP and traditional voice services.<sup>8</sup> CCA thus respectfully request that the Commission grant BellSouth’s petition to preclude state and local governments from imposing a higher amount of 911 fees and charges on interconnected VoIP services functionally similar to traditional telecommunications services.

Sincerely,

/s/ Michael Pryor

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<sup>7</sup> *Pennsylvania County Comments* at 15.

<sup>8</sup> *See e.g.*, Comments of USTelecom- The Broadband Association, WC Docket No. 19-44, at 6-7 (filed March 28, 2019).